

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:10-CV-280-FL

REGALE, INC.,)
Plaintiff / Respondent,)
v.)
THEE DOLLHOUSE PRODUCTIONS)
N.C., INC. and MICHAEL PETER,)
Defendants / Claimants.)

ORDER

This matter comes before the court on the motion by plaintiff and arbitration respondent Regale, Inc. (“Regale”) to amend the judgment in this case pursuant to Rule 59(e) (DE # 148). Defendant and arbitration claimant Thee Dollhouse Productions N.C., Inc. (“Dollhouse”) does not oppose that motion. The parties agree that although it was appropriate for the court to award prejudgment interest at a rate of 8% per annum, the court should have awarded post-judgment interest at the federal rate of 0.27% per annum. The parties have submitted an amended judgment for the court’s approval.

The court may exercise its discretion to grant a motion to alter or amend judgment under Rule 59(e) if it finds that “there has been an intervening change of controlling law, that new evidence has become available, or that there is a need to correct a clear error or prevent manifest injustice.” Robinson v. Wix Filtration Corp., 599 F.3d 403, 411 (4th Cir. 2010). Here, the parties argue that the court’s failure to provide for post-judgment interest at the rate of 0.27% per annum, as required by 28 U.S.C. § 1961, was clear error. The court agrees. See Fidelity Fed. Bank v. Durga Ma Corp.,

387 F.3d 1021, 1024 (9th Cir. 2004) (holding that “once an arbitration award is confirmed in federal court, the rate specified by § 1961 applies . . . even if the arbitration award purported to grant post-judgment interest [at a different rate]”); Carte Blanche (Singapore) Pte., Ltd. v. Carte Blanche Int’l, Ltd., 888 F.2d 260, 268-70 (2d Cir. 1989) (same); Parsons & Whittemore Ala. Mach. & Servs. Corp. v. Yeargin Constr. Co., 744 F.2d 1482, 1484 (11th Cir. 1984) (per curiam) (same).

Accordingly, Regale’s motion pursuant to Rule 59(e) is GRANTED. The court amends its order entered January 20, 2011, as follows. The 8% per annum rate provided for by the arbitrators and by state law shall apply only from July 13, 2010, through January 21, 2011. Post-judgment interest on the arbitration award shall accrue at a rate of 0.27% per annum until paid, as set forth in 28 U.S.C. § 1961. The Clerk is DIRECTED to enter the proposed amended judgment provided by the parties at docket entry 151.

SO ORDERED, this the 8th day of February, 2011.



LOUISE W. FLANAGAN
Chief United States District Court Judge